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Via Electronic Submission

December 30, 2002

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: ***Ex Parte Communication***

CC Docket No. 01-338, Review of the Section 251 Unbundling
Obligations of Incumbent Local Exchange Carriers

CC Docket No. 96-98, Implementation of the Local Competition
Provisions in the Telecommunications Act of 1996

CC Docket No. 98-147, Deployment of Wireline Services Offering
Advanced Telecommunications Capability

Dear Ms. Dortch:

LDMI submits the following information for the Commission's consideration in the above-captioned proceedings.

SBC is at it again, having filed in late December to significantly more than double UNE rates in the state of Illinois, claiming that the current average UNE loop rate in Illinois is "just under \$10" when the cost is "more than \$25", and "we lose more than \$15 per line."¹

¹ Business Wire, December 24, 2002, SBC Press Release, and Business Wire, December 26, 2002, correcting that press release.

Even without any other UNE increases, this \$15 hike would take Illinois' total recurring UNE-P rate, per SBC statistics,² from \$15.68 currently to a new figure of \$30.68 monthly, or about double. Meanwhile, as the FCC is well aware, SBC has filed to hike the UNE-P rate in Michigan from \$14.44 to \$34 – in this case significantly more than a doubling of the price. As the Commission knows, SBC also wants to substantially hike the UNE-P price in the remaining Ameritech states.

Meanwhile, SBC's chart of UNE-P prices in the lower 48 states³ shows the SBC Texas UNE-P price as \$20, consistent with what SBC CFO Randall Stephenson has told Wall Street. As revealed in our December 20 *ex parte*, Mr. Stephenson notes that at the Texas price of \$20 to \$21: "So [in the] state of Texas, it's about a \$20/21 UNE-P... at \$20/21, you have good, vibrant competition and it's not at such a level where we cannot earn money or are disincented to invest."⁴

Curiously, SBC appears not to have sought to raise the Texas UNE-P rate of \$20, while arguing that in Ameritech territory the price must be above \$30 to cover its costs. It is beholden on SBC to first prove why these positions and claims are reasonable and based on the facts, before the FCC worries about re-pricing TELRIC or eliminating UNE-P.

We reported in our December 20 *ex parte* on UNE pricing that SBC claims UNE-P has put it on a downward spiral of financial results, yet its profit margin – an impressive 15.8% in 2001 – actually improved to 16.3% in the first quarter 2002, and to 16.8% in second and third quarter 2002. But actually, 2002 performance would have been better, had it not been for SBC's ownership in Cingular Wireless. Cingular is 40% owned by BellSouth, who has reported that while net income from its Cingular Wireless Segment was \$128 million for 3rd quarter 2001, declining to \$68 million for 3rd quarter 2002,⁵ or a \$60 million profit decline for the quarter.

The other 60% of Cingular Wireless is owned by SBC, and while SBC does not give after-tax results for its share of Cingular, if we simply divide the \$60 million by BellSouth's 40% ownership and multiply times SBC's 60%, we get a \$90 million profit decline for SBC for the quarter, related to Cingular. For the third quarter of 2002, SBC reported total operating revenues of \$10,556 million and net income after-tax of \$1,770 million,⁶ or a 16.8% profit margin. If we add on the untoward decline in Cingular's

² "UNE-P: Impacts and Implications," at 15, attachment to Letter from Donald E. Cain, Vice President-Federal Regulatory, SBC Communications, Inc. to Marlene H. Dortch, CC Docket No. 01-338, September 19, 2002.

³ *Id.* footnote 2, page 13.

⁴ Randall Stephenson, CFO of SBC, Speaking at Bank of America Securities Annual Investment Conference, Sept. 23-26, 2002.

⁵ BellSouth, Form 10-Q for the quarterly period ended September 30, 2000, SEC, Note K – Segment Information.

⁶ SBC Communications Inc., Form 10-Q for quarterly period ended September 30, 2002, SEC.

results, adding \$90 million to net income, SBC would have had a profit margin of 17.6% in the third quarter, had it not been for Cingular's unfortunate decline.

Indeed, rather than trying to double or triple UNE-P rates, or drive the UNE-P providers out of business, SBC might be better off simply jettisoning Cingular Wireless. Its Third Quarter results show that its pretax Segment results on the Wireline segment (SWBT, Ameritech, etc.) had a profit margin of 15.6%, as contrasted to 8.7% for the Wireless segment. And, for the nine months ended September 30, 2002, the similar results were 17.1% return for Wireline, and 10.0% return for Wireless.⁷

Sincerely,

/s/ Jerry Finefrock

Jerry Finefrock
Vice President Regulatory Affairs

cc: Chris Libertelli, Matt Brill, Jordan Goldstein, Dan Gonzalez, Lisa Zaina, William Maher, Jeff Carlisle, Scott Bergmann, Rich Lerner, Michelle Carey, Brent Olson, Tom Navin, Jeremy Miller, Rob Tanner, Dan Shiman, Steve Morris

⁷ *Id.* Footnote 6, "Segment results, including a reconciliation to SBC consolidated results, for the three and nine months ended September 30, 2002."